1950

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File No. Prev. of Adult II/50(R)

Legal Deptt.

B **BRANCH**

Subject:— Rules under Bombay Prevention of Adulteration Act 1925.

P 2 E

File No. Prev. of Adult-II/50(R)

0-m. 194

Legal Department.

Section 19(1)(c) of the Bombay Prevention of Adulteration Act, 1925, empowers the Government of Bombay to make rules for determining what deficiency in any of the normal constituents of any article of food or what addition of extraneous matter shall x raise a presumption, until the contrary is proved, that such food is injurious to health within the meaning of section 3. Under this provision it is open to Government to direct what matters or substances, if added to any article of food, shall render that food injurious to health. But at the same time it shall be open to the person charged with making addition of such matters or substances to any article of food to prove that the substance or matter added by him to the article of food has not rendered the article injurious to health. The words "until the contrary is proved" in section 19(1)(c) clearly show that the presumption made by making a rule under that section can be rebutted by the accused by producing evidence to the contrary. Rule 7 of the Bombay Prevention of Adulteration of Articles of Food Rules provides that any articles of food to which any preservative or any colouring or other matters or substances specified in Appendix A to the rules have been added, shall be deemed, until the contrary is proved, to be injurious to health within the meaning of section 3. This rule is in consonance with section 19(1)(c) under which the right of proving to the contrary is conferred upon the accused. It will be ultra vires to provide that the addition of a preservative or a

colouring matter shall be conclusive proof that it is injurious to health. Moreover the deletion of the words "until the contrary is proved" from rule 7 will not also affect the right of the accused to bring evidence to the contrary tha the matter or substances added by him to any article of food has not rendered that food injurious to health. If the intention is not to give to the accused any right of rebutting the presumption raised by a rule made by Government and to prohibit persons from adding any extraneous matter or substance to articles of food, which in the opinion of Government are injurious to health, it would be necessary to amend the Act. Mere deletion of the words from rule 7, as proposed, will not achieve the object in view.

Id/-

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Additional Secretary to Government.

U.R. to LSS.G. and P.H.D,No. 8552, dated the 22nd June 1950.

R.D.P.
21/6/56

S.C.